

231094

PUBLIC VERSION

BEFORE THE
SURFACE TRANSPORTATION BOARD

ENTERED
Office of Proceedings

OCT 13 2011

Part of
Public Record

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TOTAL PETROCHEMICALS USA, INC.)	
)	
Complainant,)	
)	
v.)	Docket No. NOR 42121
)	
CSX TRANSPORTATION, INC.)	
)	
Defendant.)	
<hr/>)	

SECOND ERRATA TO REBUTTAL MARKET DOMINANCE EVIDENCE

TOTAL Petrochemicals USA, Inc. ("TPI") hereby files this Second Errata to Rebuttal Market Dominance Evidence ("Second Errata"). TPI filed its Rebuttal Market Dominance Evidence on September 6, 2011, and filed an Errata on that same day. TPI respectfully requests that the Surface Transportation Board ("Board" or "STB") accept this Second Errata. All corrections are to Volume I of the Rebuttal Evidence.

On page I-5, in the first line, the narrative segment that ends with the word {{[REDACTED]}}¹ on page I-5 should be followed by a double bracket to signify Highly Confidential material, instead of a single bracket.

On page I-27, the third sentence of the first full paragraph should be:

{ [REDACTED] }

On page II-B-85, the list in the third sentence of the first full paragraph should include Lane B-48. Thus, the third sentence of the first full paragraph should be:

¹ All text within single brackets is {CONFIDENTIAL} and all text within double brackets is {{HIGHLY CONFIDENTIAL}} pursuant to the Protective Order adopted in this proceeding.

PUBLIC VERSION

The relevant lanes are: B-1, B-2 ({ [REDACTED] }), B-4, B-8, B-28, B-48, B-61 ({ [REDACTED] }), B-66 ({ [REDACTED] }), B-70, B-97, B-98, B-102, B-109, B-110, and B-112.

On page II-B-89, the chart should include a row for Lane B-48, thus the chart should be (please note that reproducing the chart here has caused the footnote numbers to change; TPI is not proposing a change in the footnote numbers):

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Lane	Challenged tariff transportation		Alternative transportation proposed by CSXT in Reply Evidence	
	Origin	Destination	Origin	Destination
B-1	Memphis	Social Circle, GA	New Orleans	Social Circle, GA ²
B-2	Memphis	Evansville, IN	E. St. Louis	Louisville, KY ³
B-4	Chicago	Clinton, IN	Chicago	{ [REDACTED] }
B-8	New Orleans	Barnett, GA	New Orleans	{ [REDACTED] }
B-28	New Orleans	Social Circle, GA	New Orleans	Social Circle, GA ⁴
B-48	New Orleans	Ackerman, GA	New Orleans	Ackerman, GA ⁵
B-61	Chicago	Utica, NY	Chicago	Utica, NY ⁶
B-66	New Orleans	Wareco, GA	New Orleans	see footnote ⁷
B-70	New Orleans	Chattanooga, TN	New Orleans	Chattanooga, TN ⁸
B-97	New Orleans	Jefferson, GA	New Orleans	see footnote ⁹
B-98	New Orleans	Jefferson, GA	New Orleans	see footnote ¹⁰
B-102	New Orleans	Ackerman, GA	New Orleans	Ackerman, GA ¹¹
B-109	Chicago	Lima, OH	Chicago	Lima, OH ¹²
B-110	Chicago	Lima, OH	Chicago	Lima, OH ¹³
B-112	New Orleans	Dalton, GA	New Orleans	Dalton, GA ¹⁴

² CSXT asserts that its intermodal alternative for Lane B-1 can cover either transportation to the actual destination, { [REDACTED] } or transportation to the ultimate end-users or the facilities of TPI's customers. Reply Exhibit II-B-2 at Lane B-1. Transportation to the ultimate end-users or the facilities of TPI's customers would violate 49 USC § 10707(a) and DMIR. It would also destroy the value of having product staged close to the customers on the { [REDACTED] }.

³ CSXT asserts that, for shipments in Lane B-2 that terminate at a TRANSFLO facility in Evansville, an alternative would be to simply use the Norfolk Southern TBT terminal in Louisville, KY. Exhibit II-B-2 at Lane B-2. This is impermissible geographic competition and violates 49 USC § 10707(a) and DMIR.

⁴ See footnote for Lane B-1.

⁵ See footnote for Lane B-61 in this chart.

⁶ One of the customers in this lane directs TPI to deliver to a bulk terminal in Utica, NY; delivery is made by the Mohawk, Adirondack & Northern Railroad. Just as with CSXT's proposal for Lane B-97 (as described in the narrative just prior to this chart), CSXT's alternative for the bulk terminal delivery location in this lane could be interpreted at least three different ways – all of which are impermissible geographic competition and/or improper under 49 USC § 10707(a) and DMIR.

⁷ CSXT proposes either (1) trucking to the { [REDACTED] } in Wareco, or (2) skipping TPI's broker customer and trucking to the broker's customers (the end-users). CSXT Reply Ex. II-B-2 at Lane B-66.

⁸ CSXT proposes skipping the bulk terminal destination for the lane, and instead trucking directly to the end-user.

⁹ As described in the preceding narrative, CSXT's proposal for Lane B-97 could be interpreted in three different ways.

¹⁰ See footnote for Lane B-61 in this chart.

¹¹ See footnote for Lane B-61 in this chart.

¹² See footnote for Lane B-61 in this chart.

¹³ See footnote for Lane B-61 in this chart.

¹⁴ See footnote for Lane B-61 in this chart.

PUBLIC VERSION

On page II-B-107, the second sentence should be:

All four terminals were part of TPI's network at the time.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jeffrey O. Moreno", is written over a horizontal line.

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October 13, 2011


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CERTIFICATE OF SERVICE

I hereby certify that this 13th day of October 2011, I served a copy of the foregoing upon counsel for defendant CSXT via e-mail and first-class mail at the address below:

G. Paul Moates
Paul Hemmersbaugh
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Counsel for CSX Transportation, Inc.



David E. Benz